

ATHLETE AGENTS

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581-054-0007 (repealed)

Athlete Agents Permits

(1) Definitions:

~~(a) "Agent Contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract.~~

~~(b) "Athlete Agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. Athlete agent includes an individual who represents to the public that the individual is an athlete agent.~~

~~(c) "Athlete Agent" does not include a spouse, parent, sibling, grandparent or legal guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.~~

~~(d) "Athlete director" means an individual responsible for administering the overall athletic program of an educational institution or if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or athletic program for females, as appropriate.~~

~~(e) "Contact" means communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract.~~

~~(f) "Endorsement Contract" means an agreement under which a student is employed or receives consideration to use on behalf of the other party, any value that the student athlete may have because of publicity, reputation, fame or following obtained because of athletic ability or performance.~~

~~(g) "Educational Institution" means any elementary school, secondary school, college, university or other educational institution.~~

~~(h) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.~~

~~(i) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public body, as defined in ORS 174.109, or any other legal or commercial entity.~~

~~(j) "Professional Sports Services Contract" means an agreement under which an individual is employed or agrees to render services as a player on a professional sports team with a sports organization or as a professional athlete.~~

~~(k) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~(l) "Registration" means registration as an athlete agent pursuant to ORS 702.005 to 702.063 and 702.991.~~

~~(m) "State" means a state of the United States, the District of Columbia, Puerto Rico, The United States, Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.~~

~~(n) Means an individual who engages in, is eligible to engage in or may be eligible, in the future, to engage in any intercollegiate sport. "Student Athlete" does not include an individual who:~~

~~(A) Is permanently ineligible to participate in a particular intercollegiate sport;~~

~~(B) Is not a student athlete for the purposes of that sport.~~

~~(2) Civil Action:~~

~~(a) By acting as an athlete agent in Oregon, nonresident individual appoints the Department of Education as the individual's agent for service of process in any civil action in Oregon related to the individual's acting as an athlete agent in Oregon.~~

~~(b) The department may issue subpoenas for any material that is relevant to the administration of ORS 702.005 to 702.063 and 702.991.~~

~~(3) Certificate of Registration, application, and revocation process: except as otherwise provided in subsection (a) of this section, an individual may not act as an athlete agent in Oregon without holding a certificate of registration issued under this section or section (5).~~

~~(a) Before being issued a certificate of registration, an individual may act as an athlete agent in Oregon for all purposes except signing an agency contract if:~~

~~(A) A student athlete or another person acting on behalf of the student athlete initiates communication with the individual; and~~

~~(B) Within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in Oregon.~~

~~(b) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under the contract.~~

~~(c) Except as otherwise provided in subsection (d) of this rule, the Department of Education (department) shall issue a certificate of registration to an individual who complies with ORS 702.017(1) and (2) or whose application has been accepted under ORS 702.017(3).~~

~~(d) The department may refuse to issue a certificate of registration if the department determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the department may consider whether the applicant has:~~

~~(A) Been convicted of a crime that if committed in Oregon, would be a crime involving moral turpitude or a felony;~~

~~(B) Made a materially false, misleading, deceptive or fraudulent representation in the application or as an athlete agent;~~

~~(C) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;~~

~~(D) Engaged in prohibited conduct;~~

~~(E) Had a registration or licensure as an athlete agent suspended, revoked or denied or been refused renewal of registration or licensure as an athlete agent in any state;~~

~~(F) Engaged in conduct the consequence of which was that a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution; or~~

~~(G) Engaged in conduct that significantly, adversely reflects on the applicant's credibility, honesty or integrity.~~

~~(e) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.~~

~~(f) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (e) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The department shall accept the application for renewal for the other state as an application for renewal in Oregon if the application to the state if it:~~

~~(A) Was submitted in the other state within the preceding six months and the applicant certifies that the information contained in the application for renewal is current;~~

~~(B) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in Oregon; and~~

~~(C) Was signed by the applicant under penalty of perjury.~~

~~(g) A certificate of registration or renewal of a registration is valid for two years.~~

~~(h) The department may suspend, revoke or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing.~~

~~(4) Contents of Application Form:~~

~~(a) An applicant for registration shall submit an application for registration to the Department of Education in a form prescribed by the department and if requested by the department, shall allow the department to take fingerprints for a criminal record check conducted pursuant to ORS 702.022.~~

~~(b) The application must be in the name of an individual and except as otherwise provided in subsection (c) of this section, signed or otherwise authenticated by the applicant under penalty of perjury. The application must state or contain:~~

~~(A) The name of the applicant and the address of the applicant's principal place of business;~~

~~(B) The name of the applicant's business or employer, if applicable;~~

~~(C) Any business or occupation engaged in by the applicant for the five years preceding the date of submission of the application;~~

~~(D) A description of the applicant's:~~

~~(i) Formal training as an athlete agent;~~

~~(ii) Practical experience as an athlete agent; and~~

~~(iii) Educational background relating to the applicant's activities as an athlete agent.~~

~~(E) The names and addresses of three individuals not related to the applicants who are willing to serve as references;~~

~~(F) The name, sport and last known team for each individual for whom the applicant acted as an athlete agent during the five years preceding the date of submission of the application;~~

~~(G) The names and addresses of all persons who are:~~

~~(i) With respect to the athlete agent's business if the business is not a corporation, the partners, members, officers, managers, associates or profit sharers of the business; and~~

~~(ii) With respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation having an interest of five percent or more;~~

~~(H) Whether the applicant or any person named pursuant to paragraph (G) of this subsection has been convicted of a crime that, if committed in Oregon, would be a crime involving moral turpitude or a felony and identify the crime;~~

~~(I) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (G) of this subsection has made a false, misleading, deceptive or fraudulent representation;~~

~~(J) Whether there has been any denial of an application for suspension or revocation of a refusal to renew the registration or licensure of the applicant or any person named pursuant to paragraph (G) of this subsection as an athlete agent in any state;~~

~~(K) Any sanction, suspension or disciplinary action taken against the applicant or any person named pursuant to paragraph (G) of this subsection arising out of occupational or professional conduct; and~~

~~(L) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (G) of this subsection resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution.~~

~~(c) An individual who has submitted an application for and holds a certificate of registration or licensure as an athlete agent in another state may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (b) of this section. The department shall accept the application and the certificate from the other state as an application for registration in Oregon if the application to the other state if it:~~

~~(A) Was submitted in the other state within the preceding six months and the applicant certifies that the information contained in the application is current;~~

~~(B) Contains information substantially similar to or more comprehensive than that required in an application submitted in Oregon; and~~

~~(C) Was signed by the applicant under penalty of perjury.~~

~~(5) The Department of Education may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.~~

~~(6) Fees: An application for registration or renewal of registration must be accompanied by a fee in the following amount:~~

~~(a) \$250 for an initial application for registration;~~

~~(b) \$150 for an application for registration based upon a certificate of registration or licensure issued by another state;~~

~~(c) \$150 for an application for renewal of registration; or~~

~~(d) \$150 for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.~~

~~(7) Prohibited acts:~~

~~(a) An athlete agent may not intentionally:~~

~~(A) Initiate contact with a student athlete unless registered under ORS 702.005 to 702.063 and 702.991;~~

~~(B) Refuse or fail to retain or permit inspection of the records required to be retained by section (11) of this rule;~~

~~(C) Fail to register when required by ORS 702.012;~~

~~(D) Provide materially false or misleading information in an application for registration or renewal of registration;~~

~~(E) Predate or postdate an agency contract; or~~

~~(F) Fail to notify a student athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport.~~

~~(b) An athlete agent may not furnish anything of value to the student athlete before the student athlete enters into an agency contract.~~

~~(c) An athlete agent may not, with the intent to induce a student athlete to enter into an agency contract, furnish anything of value to any individual other than the student athlete or another registered athlete agent.~~

~~(d) An athlete agent may not, with the intent to induce a student athlete to enter into an agency contract, give any materially false or misleading information or make a materially false promise or representation.~~

~~(8) Agency Contracts:~~

~~(a) An agency contract must be in a record, signed or otherwise authenticated by the parties.~~

~~(b) An agency contract must state or contain:~~

~~(A) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;~~

~~(B) The name of any person not listed in the application for registration or renewal of registration that will be compensated because the student athlete signed the agency contract;~~

~~(C) A description of any expenses that the student athlete agrees to reimburse;~~

~~(D) A description of the services to be provided to the student athlete;~~

~~(E) The duration of the contract; and~~

~~(F) The date of execution.~~

~~(c) An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldfaced type in capital letters stating:~~

~~WARNING TO THE STUDENT ATHLETE: IF YOU SIGN THIS CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT. IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, OR BEFORE YOU PARTICIPATE IN ANY INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.~~

~~(d) An agency contract that does not conform to this section is void-able by the student athlete. If a student athlete voids an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.~~

~~(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student athlete at the time of execution.~~

~~(f) The amendments to ORS 702.047 by section 12 of this 2005 Act apply to agency contracts entered into on or after the effective date of this 2005 Act.~~

~~(9) Time constraints on agency contracts:~~

~~(a) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.~~

~~(b) Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that the student athlete has entered into an agency contract.~~

~~(10) Student rights:~~

~~(a) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.~~

~~(b) The right of a student to cancel a contract under this section may not be waived.~~

~~(c) If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.~~

~~(11) Recordkeeping requirements:~~

~~(a) An athlete agent shall retain the following records for a period of five years:~~

~~(A) The name and address of each individual represented by the athlete agent;~~

~~(B) Any agency contract entered into by the athlete agent; and~~

~~(C) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.~~

~~(b) Records required by subsection (a) of this section to be retained are open to inspection by the Department of Education during normal business hours of the athlete agent.~~

~~(12) Educational damages and actions:~~

~~(a) An educational institution shall have a cause of action against an athlete agent or a former student athlete for damages caused by a violation of ORS 702.005 to 702.063 and 702.991. In an action under this section, the court may award to the prevailing party costs and reasonable attorney fees.~~

~~(b) For the purposes of this section, damages of an educational institution include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student athlete, the educational institution was injured by a violation of ORS 702.005 to 702.063 and 702.991 or was penalized, disqualified or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.~~

~~(c) A cause of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student athlete.~~

~~(d) Any liability of the athlete agent or the former student athlete under this section is several and not joint.~~

~~(e) ORS 702.005 to 702.063 and 702.991 do not restrict rights, remedies or defenses of any person under law or equity.~~

~~(13) Civil Penalties:~~

~~(a) The Department of Education may assess a civil penalty against an athlete agent not to exceed \$25,000 for a violation of ORS 702.005 to 702.063.~~

~~(b) Civil penalties under subsection (a) of this section shall be imposed in the manner provided in ORS 183.745.~~

~~(c) All civil penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.~~

~~(14) Penalties:~~

~~(a) An athlete agent who violates ORS 702.032 is guilty of a Class C felony.~~

~~(b) Violation of the athlete agent's 72-hour notice requirement provided under section (9)(a) of this rule is a Class C felony.~~

~~(c) It is a Class A misdemeanor for any person to conduct business as an athlete agent in the State of Oregon unless the person has a valid certificate of registration issued pursuant to ORS 702.012 or section (6) of this rule.~~

~~(d) It is a Class A misdemeanor for any person to represent to another person by verbal claim, advertisement, letterhead, business card or any other means that the person is an athlete agent unless the person has a valid certificate of registration issued pursuant to ORS 702.012 or section (6) of this 2005 Act.~~

~~(15) In applying and construing ORS 702.005 to 702.991, the courts and the Department of Education shall give consideration to the need to promote uniformity of the law with respect to its subject matter among states that have enacted the Uniform Athlete Agents Act.~~

~~(16) Fingerprint request and destruction:~~

~~(a) The Department of Education may request and the Department of State Police shall furnish to the Department of Education, information on an individual that the Department of State Police possesses in the central bureau of criminal identification, including but not limited to manual or computerized information required for purposes of issuing a certificate of registration to an athlete agent under ORS 702.012 and 702.017 or a temporary certificate of registration to an athlete agent under section (5) of this rule.~~

~~(b) After furnishing the information obtained under subsection (a) of this section, the Department of State Police shall conduct a nationwide criminal records check of the individual through the Federal Bureau of Investigation, including records of fingerprints, and report the results to the Department of Education.~~

~~(c) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used to conduct the criminal records check and shall not keep any record of the fingerprints. However, if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of Education shall not send the cards to the federal bureau, but shall continue to process the information through other available resources.~~

~~(d) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall return the fingerprint cards to the Department of Education. The Department of~~

~~Education shall destroy the fingerprint cards and shall not keep any facsimiles or other material from which a fingerprint can be reproduced.~~

~~(e) For purposes of receiving the information described in this section, the Department of Education is considered to be a designated agency as defined in ORS 181.010.~~

Stat. Auth.: ORS 702.063

Stats. Implemented: ORS 702

Hist.: ODE 28-1999(Temp), f. & cert. ef. 11-5-99 thru 5-20-00; ODE 14-2000, f. & cert. ef. 5-3-00; ODE 6-2006, f. & cert. ef. 2-14-06; Renumbered from 581-022-1735, ODE 25-2008, f. & cert. ef. 9-26-08